

HOUSE BILL 908

G1

2lr2288

By: **Delegates Ross, Alston, Anderson, Braveboy, Haynes, and Stukes**

Introduced and read first time: February 10, 2012

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Boards of Elections – Membership**

3 FOR the purpose of altering the membership of the State Board of Elections and the
4 local boards of elections by replacing principal minority party members with
5 members who are not affiliated with the majority party; requiring the Governor
6 to appoint members of the State Board and the local boards who are not
7 affiliated with the majority party in a certain manner; providing for filling a
8 vacancy on a local board of elections in a seat formerly held by a member who is
9 not affiliated with the majority party; requiring at least one member of a local
10 board of canvassers present during the canvass to be a member who is not
11 affiliated with the majority party; making conforming changes; defining a
12 certain term; providing for the effective dates of this Act; and generally relating
13 to the membership of the State Board and the local boards of elections.

14 BY repealing and reenacting, with amendments,
15 Article – Election Law
16 Section 2–101, 2–201, and 11–301(g)
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2011 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Election Law**

22 2–101.

23 (A) IN THIS SECTION, “NONMAJORITY PARTY MEMBER” MEANS A
24 MEMBER OF THE STATE BOARD OF ELECTIONS WHO IS A REGISTERED VOTER
25 NOT AFFILIATED WITH THE MAJORITY PARTY.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **[(a)] (A-1)** There is a State Board of Elections consisting of five members.

2 (b) The State Board shall maintain its principal office in Annapolis and have
3 staff, subject to the State Personnel and Pensions Article, as provided in the State
4 budget.

5 (c) (1) Each member of the State Board shall:

6 (i) subject to subsection (g)(2) of this section, be appointed by
7 the Governor in accordance with paragraph (2) of this subsection, with the advice and
8 consent of the Senate of Maryland;

9 (ii) be a registered voter in the State for the 5 years
10 immediately preceding the appointment;

11 (iii) subject to subsection (f)(3) of this section, be eligible for
12 reappointment;

13 (iv) conform to the restrictions specified under § 2-301 of this
14 title; and

15 (v) be subject to removal by the Governor for incompetence,
16 misconduct, or other good cause, upon written charges filed by the Governor with the
17 State Board and after having been afforded notice and ample opportunity to be heard.

18 (2) Subject to subsection (e) of this section, the Governor shall appoint
19 as a member of the State Board:

20 **(I)** an individual whose name is submitted to the Governor by
21 the State Central Committee of the [principal political] **MAJORITY** party, **IF THE**
22 **MAJORITY PARTY IS** entitled to the appointment; **AND**

23 **(II)** **ANY ELIGIBLE INDIVIDUAL, IF THE APPOINTMENT IS**
24 **REQUIRED TO BE OF A NONMAJORITY PARTY MEMBER.**

25 (d) Before taking office, each appointee to the State Board shall take the oath
26 required by Article I, § 9 of the Maryland Constitution.

27 (e) (1) **[Each member] THREE MEMBERS** of the State Board shall be **[a**
28 **member of one of the principal political parties] MEMBERS OF THE MAJORITY**
29 **PARTY AND TWO MEMBERS SHALL BE NONMAJORITY PARTY MEMBERS.**

30 (2) A person may not be appointed to the State Board if the
31 appointment will result in the **MEMBERSHIP OF THE** State Board **[having more than**

1 three or fewer than two members of the same principal political party] NOT
2 CONFORMING WITH PARAGRAPH (1) OF THIS SUBSECTION.

3 (f) (1) The term of a member is 4 years and begins on July 1.

4 (2) The terms of the members are staggered as required by the terms
5 provided for members of the State Board on July 1, 1999.

6 (3) A member may not serve more than three consecutive terms.

7 (4) At the end of a term, a member continues to serve until a successor
8 is appointed and qualifies.

9 (g) (1) If a vacancy occurs on the State Board, it shall be filled for the
10 remainder of the unexpired term and until a successor is appointed and qualifies.

11 (2) An appointment made while the Senate of Maryland is not in
12 session shall be considered temporary until the appointee is confirmed by the Senate.

13 (h) Not later than August 1 each year, the State Board shall elect one of its
14 members as chairman.

15 (i) Each member shall receive:

16 (1) per diem compensation as provided in the State budget for each
17 day that the member is actually engaged in the discharge of official duties, as
18 authorized by the State Board and in accordance with the State budget; and

19 (2) reimbursement for all necessary and proper expenses, as provided
20 in the State budget.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
22 read as follows:

23 **Article – Election Law**

24 2–201.

25 (A) IN THIS SECTION, “NONMAJORITY PARTY MEMBER” MEANS A
26 MEMBER OF A LOCAL BOARD OF ELECTIONS WHO IS A REGISTERED VOTER NOT
27 AFFILIATED WITH THE MAJORITY PARTY.

28 [(a)](A–1) (1) There is a county board of elections in each county of the
29 State.

1 (2) Each local board and its staff is subject to the direction and
2 authority of the State Board and is accountable to the State Board for its actions in all
3 matters regarding the implementation of the requirements of this article and any
4 applicable federal law.

5 (b) (1) Except as provided in subsections (j), (k), and (l) of this section,
6 each local board consists of three regular members and two substitute members.

7 (2) Two regular members and one substitute member shall be of the
8 majority party, and one regular member and one substitute member shall be [of the
9 principal minority party] **NONMAJORITY PARTY MEMBERS.**

10 (3) **(I)** Except as provided in subsection (l) of this section, in the
11 event of the absence of a regular **MAJORITY PARTY** member or a vacancy in the office
12 of a regular **MAJORITY PARTY** member, the substitute member of the [same political]
13 **MAJORITY** party shall exercise the powers and duties of a regular member until the
14 regular member returns or the vacancy is filled as prescribed in subsection (h) of this
15 section.

16 **(II) EXCEPT AS PROVIDED IN SUBSECTION (L) OF THIS**
17 **SECTION, IN THE EVENT OF THE ABSENCE OF A REGULAR NONMAJORITY PARTY**
18 **MEMBER OR A VACANCY IN THE OFFICE OF A REGULAR NONMAJORITY PARTY**
19 **MEMBER, THE SUBSTITUTE NONMAJORITY PARTY MEMBER SHALL EXERCISE**
20 **THE POWERS AND DUTIES OF A REGULAR MEMBER UNTIL THE REGULAR**
21 **MEMBER RETURNS OR THE VACANCY IS FILLED AS PRESCRIBED IN SUBSECTION**
22 **(H) OF THIS SECTION.**

23 (c) Each regular and substitute member of a local board shall:

24 (1) be appointed in accordance with subsection (g) of this section;

25 (2) be a registered voter in the county for which the individual is
26 appointed for the 5 years immediately preceding the appointment; and

27 (3) be eligible for reappointment.

28 (d) (1) The term of a member is 4 years and begins on the first Monday in
29 June of each year following a gubernatorial election.

30 (2) At the end of a term, a member continues to serve until a successor
31 is appointed and qualifies.

32 (e) Before taking office, a member shall take and subscribe to the oath
33 prescribed in Article I, § 9 of the Maryland Constitution.

1 (f) The Governor may remove a member for incompetence, misconduct, or
2 other good cause, upon written charges stating the Governor's grounds for dismissal
3 and after affording the member notice and an ample opportunity to be heard.

4 (g) (1) The Governor shall request the county central committee
5 representing the majority party [or the principal minority party, as appropriate,] to
6 submit a list of at least four eligible individuals from which the Governor may make
7 an appointment of a regular **MAJORITY PARTY** member or a substitute **MAJORITY**
8 **PARTY** member of the local board.

9 (2) The Governor may reject all of the nominees if the Governor
10 determines them to be unfit or incompetent, in which case the Governor shall notify
11 the State Board in writing and request an additional list of at least four eligible
12 nominees from the county central committee. A third list may be requested in the
13 same manner.

14 (3) If a list containing the names of four eligible nominees is not
15 submitted within 20 days of a request or if all the nominees on three lists are rejected,
16 the Governor may appoint any eligible person who is a member of the [appropriate
17 political] **MAJORITY** party.

18 (4) **THE GOVERNOR SHALL APPOINT ANY ELIGIBLE INDIVIDUAL**
19 **AS A REGULAR NONMAJORITY PARTY MEMBER OR A SUBSTITUTE NONMAJORITY**
20 **PARTY MEMBER OF THE LOCAL BOARD.**

21 [(4)] (5) (i) Except as provided in subparagraph (ii) of this
22 paragraph, each appointment shall be subject to confirmation by the Senate of
23 Maryland.

24 (ii) In Caroline, Dorchester, and Kent counties, if there is no
25 resident Senator of the particular county, the confirmation required under
26 subparagraph (i) of this paragraph shall be by the House of Delegates of Maryland.

27 (iii) 1. If [an] **A MAJORITY PARTY** appointee is rejected, the
28 Governor shall make another appointment **OF A MAJORITY PARTY MEMBER** from the
29 list or lists submitted under paragraphs (1) and (2) of this subsection. If a list is not
30 provided, or the nominees on three lists are rejected, the Governor may appoint an
31 eligible individual as provided in paragraph (3) of this subsection.

32 2. **IF A NONMAJORITY PARTY APPOINTEE IS**
33 **REJECTED, THE GOVERNOR SHALL MAKE ANOTHER APPOINTMENT IN**
34 **ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION.**

35 (h) (1) (I) Except as provided in subsections (j), (k), and (l) of this
36 section, if a **MAJORITY PARTY** member of a local board dies, resigns, is removed, or
37 becomes ineligible:

1 [(i)] 1. the substitute member belonging to the [same
2 political] MAJORITY party shall become a regular member of the local board; and

3 [(ii)] 2. the Governor shall appoint an eligible person from the
4 [same political] MAJORITY party to be the new substitute member.

5 (II) EXCEPT AS PROVIDED IN SUBSECTIONS (J), (K), AND (L)
6 OF THIS SECTION, IF A NONMAJORITY PARTY MEMBER OF A LOCAL BOARD DIES,
7 RESIGNS, IS REMOVED, OR BECOMES INELIGIBLE:

8 1. THE SUBSTITUTE NONMAJORITY PARTY MEMBER
9 SHALL BECOME A REGULAR MEMBER OF THE LOCAL BOARD; AND

10 2. THE GOVERNOR SHALL APPOINT ANY ELIGIBLE
11 INDIVIDUAL TO BE THE NEW SUBSTITUTE MEMBER.

12 (2) If a substitute member of a local board becomes a regular member
13 as provided in paragraph [(1)(ii)] (1) of this subsection, dies, resigns, is removed, or
14 becomes ineligible when the confirming legislative body is not in session, the Governor
15 shall appoint an eligible person from the [same political party as the predecessor
16 substitute member] MAJORITY PARTY OR A PERSON ELIGIBLE TO BE A
17 SUBSTITUTE NONMAJORITY PARTY MEMBER to fill the vacancy, AS APPROPRIATE.
18 That individual shall serve until the earlier of:

19 (i) the adjournment of the next session of the General
20 Assembly; or

21 (ii) the appointment of another individual to fill the same
22 vacancy.

23 (i) A board shall meet within 20 days after the beginning of the term to elect
24 one of its regular members as president.

25 (j) (1) In Prince George's County, the local board consists of five regular
26 members and three substitute members.

27 (2) Four regular members and two substitute members shall be of the
28 majority party, and one regular member and one substitute member shall be [of the
29 principal minority party] NONMAJORITY PARTY MEMBERS.

30 (3) If a vacancy occurs on the local board among the members from the
31 majority party, the Governor shall designate one of the substitute members from that
32 party to fill the vacancy.

1 (k) (1) In Montgomery County, the local board consists of five regular
2 members and two substitute members.

3 (2) Three regular members and one substitute member shall be of the
4 majority party, and two regular members and one substitute member shall be [of the
5 principal minority party] **NONMAJORITY PARTY MEMBERS.**

6 (l) (1) In Allegany County, Baltimore City, Caroline County, Charles
7 County, Frederick County, Harford County, Somerset County, Washington County,
8 Wicomico County, and Worcester County, the local board consists of five regular
9 members.

10 (2) Three regular members shall be of the majority party, and two
11 regular members shall be [of the principal minority party] **NONMAJORITY PARTY**
12 **MEMBERS.**

13 (3) (i) **1.** If a vacancy occurs on the local board **IN A SEAT**
14 **FORMERLY HELD BY A MAJORITY PARTY MEMBER**, the Governor shall appoint an
15 eligible person from the [same political party as the predecessor member] **MAJORITY**
16 **PARTY** to fill the vacancy in accordance with subsection (g) of this section for the
17 remainder of the unexpired term and until a successor is appointed and qualifies.

18 **2. IF A VACANCY OCCURS ON THE LOCAL BOARD IN A**
19 **SEAT FORMERLY HELD BY A NONMAJORITY PARTY MEMBER, THE GOVERNOR**
20 **SHALL APPOINT ANY ELIGIBLE INDIVIDUAL TO FILL THE VACANCY FOR THE**
21 **REMAINDER OF THE UNEXPIRED TERM AND UNTIL A SUCCESSOR IS APPOINTED**
22 **AND QUALIFIES.**

23 (ii) An appointment made while the Senate of Maryland is not
24 in session shall be considered temporary until the appointee is confirmed by the
25 Senate.

26 11-301.

27 (g) At least one member of the board of canvassers present shall be a
28 registered voter [of the principal minority party] **NOT AFFILIATED WITH THE**
29 **MAJORITY PARTY.**

30 **SECTION 3. AND BE IT FURTHER ENACTED,** That after the expiration of
31 the terms of the principal minority party members of the State Board of Elections who
32 are serving on the effective date of this Act, the Governor shall appoint nonmajority
33 party members to succeed the principal minority party members as required by
34 Section 1 of this Act.

35 **SECTION 4. AND BE IT FURTHER ENACTED,** That Section 2 of this Act shall
36 take effect June 1, 2015.

1 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
2 Section 4 of this Act, this Act shall take effect July 1, 2012.